
Federal Communications Commission

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Access Media 3, Inc.)	File No.: EB-FIELDSCR-13-00008217
)	
West Palm Beach, Florida)	NOV No.: V201332600009
)	

NOTICE OF VIOLATION

Released: July 2, 2013

By the Resident Agent, Miami Office, South Central Region, Enforcement Bureau:

1. This is a Notice of Violation (Notice) issued pursuant to Section 1.89 of the Commission's rules (Rules)¹ to Access Media 3, Inc.,² operator of a non-cable multichannel video programming distributor (MVPD) system serving the Cresthaven-Ashley Master Association (Cresthaven Ashley) Community in West Palm Beach, Florida. Pursuant to Section 1.89(a) of the Rules, issuance of this Notice does not preclude the Enforcement Bureau from further action if warranted, including issuing a Notice of Apparent Liability for Forfeiture for the violation(s) noted herein.³

2. On April 23 and May 23, 2013, agents of the Enforcement Bureau's Miami Office inspected the non-cable MVPD system serving the Cresthaven Ashley Community in West Palm Beach, Florida, and observed the following violation(s):

- a. 47 C.F.R. 76.605(a)(12): "As an exception to the general provision requiring measurements to be made at subscriber terminals, and without regard to the type of signals carried by the cable television system, signal leakage from a cable television system shall be measured in accordance with the procedures outlined in § 76.609(h) and shall be limited as follows: Over 54 MHz up to and including 216 MHz – 20 microvolts per meter, measured at 3 meters." On May 23, 2013, agents observed signal leakage on the frequency 133.2625 at geographic coordinates of 26° 38' 04" North Latitude, 080° 07' 12" West Longitude, and measured an emission of 699 microvolts per meter, which exceeds the field strength allowed on those frequencies by the Rules.

¹ 47 C.F.R. § 1.89.

² Access Media 3, Inc. holds microwave industrial/business pool licenses.

³ 47 C.F.R. § 1.89(a).

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- b. 47 C.F.R. § 76.1804: “An MVPD shall notify the Commission before transmitting any carrier or other signal component with an average power level across a 25 kHz bandwidth in any 160 microsecond time period equal to or greater than 10^{-4} watts at any point in the cable distribution system on any frequency or frequencies in the aeronautical radio frequency bands (108-137 and 225-400 MHz). The notification shall be made on FCC Form 321.” On April 23 and May 23, 2013, Access Media 3, Inc. was operating on aeronautical frequencies, but had not notified the Commission as required.

3. Pursuant to Section 403 of the Communications Act of 1934, as amended,⁴ and Section 1.89 of the Rules, we seek additional information concerning the violations and any remedial actions taken. Therefore, Access Media 3, Inc. must submit a written statement concerning this matter within twenty calendar (20) days of release of this Notice. The response (i) must fully explain each violation, including all relevant surrounding facts and circumstances, (ii) must contain a statement of the specific action(s) taken to correct each violation and preclude recurrence, and (iii) must include a time line for completion of any pending corrective action(s). The response must be complete in itself and must not be abbreviated by reference to other communications or answers to other notices.⁵

4. In accordance with Section 1.16 of the Rules, we direct Access Media 3, Inc. to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of Access Media 3, Inc., with personal knowledge of the representations provided in Access Media 3, Inc.’s response, verifying the truth and accuracy of the information therein,⁶ and confirming that all of the information requested by this Notice which is in the Access Media 3, Inc.’s possession, custody, control, or knowledge has been produced. To knowingly and willfully make any false statement or conceal any material fact in reply to this Notice is punishable by fine or imprisonment under Title 18 of the U.S. Code.⁷

⁴ 47 U.S.C. § 403.

⁵ 47 C.F.R. § 1.89(c).

⁶ Section 1.16 of the Rules provides that “[a]ny document to be filed with the Federal Communications Commission and which is required by any law, rule or other regulation of the United States to be supported, evidenced, established or proved by a written sworn declaration, verification, certificate, statement, oath or affidavit by the person making the same, may be supported, evidenced, established or proved by the unsworn declaration, certification, verification, or statement in writing of such person Such declaration shall be subscribed by the declarant as true under penalty of perjury, and dated, in substantially the following form . . . : ‘I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)’.” 47 C.F.R. § 1.16.

⁷ 18 U.S.C. § 1001 *et seq.* See also 47 C.F.R. § 1.17.

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5. All replies and documentation sent in response to this Notice should be marked with the File No. and NOV No. specified above, and mailed to the following address:

Federal Communications Commission
Miami Office
P.O. Box 520617
Miami, FL 33152-0617
Re: EB-FIELDSCR-13-00008217

6. This Notice shall be sent to Access Media 3, Inc. at its address of record.

7. The Privacy Act of 1974⁸ requires that we advise you that the Commission will use all relevant material information before it, including any information disclosed in your reply, to determine what, if any, enforcement action is required to ensure compliance.

FEDERAL COMMUNICATIONS COMMISSION

Stephanie Dabkowski
Resident Agent
Miami Office
South Central Region
Enforcement Bureau

⁸ P.L. 93-579, 5 U.S.C. § 552a(e)(3).